

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JIMI M. BELLINGER,

Plaintiff,

v.

THE STATE OF WASHINGTON, *et al.*,

Defendants.

Case No. C16-1237-RAJ

ORDER

**I. INTRODUCTION**

This matter comes before the Court on Defendant City of Seattle's Partial Motion to Dismiss Count III of Plaintiff's Complaint. Dkt. # 13. For the reasons that follow, the Court **DENIES** the City's motion.

**II. BACKGROUND**

The Court describes the facts as Plaintiff Jimi M. Bellinger alleges them in his complaint, Dkt. # 1-2, suggesting no opinion on whether these allegations will prove true. The Court cites the numbered paragraphs of the complaint using "¶" symbols.

On February 3, 2016, Yashimoto Saki was using a computer at the Seattle Central Community College ("Seattle Central") library when a man sat down nearby, exposed himself to her, and began masturbating. ¶¶ 14, 16. Without seeing the man's face, Saki immediately got up and reported his conduct to a librarian. ¶¶ 16-17. By then, however, the man had left. ¶ 17.

Bellinger, an African-American man, was reading magazines nearby. ¶¶ 3, 14-15.

1 A Seattle Central security guard detained him on suspicion that he was the man whom  
2 Saki had described. ¶ 18. Officers from the Seattle Police Department (“SPD”) arrived,  
3 arrested Bellinger for indecent exposure, and removed him from the library. ¶¶ 19-20.

4 After Bellinger had been taken away, an SPD officer interviewed Saki who  
5 explained that she could not identify the man who exposed himself, but described him as  
6 wearing brown clothes and a hat. ¶ 20. Bellinger was wearing black clothing. *Id.*  
7 Surveillance video, which was available to the officers prior to Bellinger’s arrest,  
8 unequivocally shows that Bellinger was not the man who had exposed himself to Saki.  
9 *Id.* The officers, however, ignored this video and all other evidence demonstrating that  
10 they lacked probable cause to arrest him. *Id.*

11 Bellinger was transported to King County Jail, where he was held for more than  
12 twenty-four hours. ¶ 21. Bellinger’s unlawful detention caused him to suffer significant  
13 emotional harm. ¶ 23. Based on the surveillance video, all charges against him were  
14 dismissed with prejudice. ¶ 22.

15 On July 19, 2016, Bellinger filed a civil rights action against the officers, the  
16 security guard, the City of Seattle, the State of Washington, and Seattle Central.  
17 Dkt. # 1-2. Bellinger alleges that his arrest was unsupported by probable cause and that  
18 he was targeted as a suspect based on his race. ¶¶ 19, 34. Among Bellinger’s causes of  
19 action is a *Monell* claim against the City of Seattle for failing to properly train its officers  
20 and thereby causing his unlawful and discriminatory arrest. ¶¶ 36-47. The City of  
21 Seattle timely removed the action to this Court and moved to dismiss the *Monell* claim  
22 pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. ## 1, 13. Bellinger opposes  
23 the motion. Dkt. # 17.

### 24 **III. LEGAL STANDARD**

25 Rule 12(b)(6) permits a court to dismiss a complaint for failure to state a claim.  
26 The rule requires the court to assume the truth of the complaint’s factual allegations and  
27 credit all reasonable inferences arising from those allegations. *Sanders v. Brown*, 504

1 F.3d 903, 910 (9th Cir. 2007). A court “need not accept as true conclusory allegations  
2 that are contradicted by documents referred to in the complaint.” *Manzarek v. St. Paul*  
3 *Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008). The plaintiff must point to  
4 factual allegations that “state a claim to relief that is plausible on its face.” *Bell Atl.*  
5 *Corp. v. Twombly*, 550 U.S. 544, 568 (2007). If the plaintiff succeeds, the complaint  
6 avoids dismissal if there is “any set of facts consistent with the allegations in the  
7 complaint” that would entitle the plaintiff to relief. *Id.* at 563; *Ashcroft v. Iqbal*, 556 U.S.  
8 662, 679 (2009).

9 When resolving a motion to dismiss, a court typically cannot consider evidence  
10 beyond the four corners of the complaint. It may, however, consider certain materials,  
11 including those subject to judicial notice, without converting the motion into a motion for  
12 summary judgment. *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003). Under  
13 Rule 201, a court may take judicial notice of “a fact that is not subject to reasonable  
14 dispute because it: (1) is generally known within the trial court’s territorial jurisdiction;  
15 or (2) can be accurately and readily determined from sources whose accuracy cannot  
16 reasonably be questioned.” Fed. R. Evid. 201. Certain public records qualify under the  
17 second category, including the “records and reports of administrative bodies.” *Ritchie*,  
18 342 F.3d at 909 (quoting *Interstate Nat. Gas Co. v. S. Cal. Gas Co.*, 209 F.2d 380, 385  
19 (9th Cir. 1953)).

#### 20 IV. DISCUSSION

21 The City of Seattle contends that Bellinger’s *Monell* claim must be dismissed with  
22 prejudice under Rule 12(b)(6) because the factual allegations underlying the claim are  
23 insufficient to state a plausible claim for relief. In support of its motion, the City of  
24 Seattle requests that the Court take judicial notice of an SPD manual providing that  
25 arrests shall be made only in situations where probable cause exists. Because the SPD  
26 manual is a public record that qualifies as a record or report of an administrative body,  
27 the Court will take notice of this manual in resolving the instant motion. *See Ritchie*, 342

1 F.3d at 909.

2 “In order to establish liability for governmental entities under *Monell*, a plaintiff  
3 must prove ‘(1) that the plaintiff possessed a constitutional right of which he was  
4 deprived; (2) that the municipality had a policy; (3) that this policy amounts to deliberate  
5 indifference to the plaintiff’s constitutional right; and, (4) that the policy is the moving  
6 force behind the constitutional violation.’” *Dougherty v. City of Covina*, 654 F.3d 892,  
7 900 (9th Cir. 2011) (quoting *Plumeau v. Sch. Dist. No. 40 Cnty. of Yamhill*, 130 F.3d 432,  
8 438 (9th Cir. 1997) (brackets omitted)). “Failure to train may amount to a policy of  
9 ‘deliberate indifference,’ if the need to train was obvious and the failure to do so made a  
10 violation of constitutional rights likely.” *Id.* (citing *City of Canton v. Harris*, 489 U.S.  
11 378, 390 (1989)).

12 Here, Bellinger alleges that his constitutional rights under the Fourth and  
13 Fourteenth Amendments were violated when SPD officers arrested him without probable  
14 cause and on the basis of his race. ¶ 45. According to Bellinger, these constitutional  
15 violations occurred as a direct result of the City of Seattle’s failure to train its officers on  
16 how to accurately assess whether an arrest is supported by probable cause. ¶ 38. He  
17 alleges that this failure to train is particularly acute in situations where a victim has failed  
18 to identify a suspect under consideration for arrest. *Id.*

19 Assuming the truth of Bellinger’s factual allegations and crediting all reasonable  
20 inferences arising therefrom, he has adequately alleged the elements required to state a  
21 *Monell* claim for relief against the City of Seattle. First, as alleged, the City of Seattle  
22 deprived Bellinger of his constitutional rights when it arrested him on the basis of  
23 equivocal witness testimony and in spite of exonerative surveillance video. Second, as  
24 alleged, the City of Seattle’s failure to train its officers on what constitutes probable  
25 cause is a “policy of ‘deliberate indifference’” because the need to train officers on this  
26 point is abundantly clear and the failure to do so will likely result in constitutional  
27 violations. *Dougherty*, 654 F.3d at 900. The City of Seattle’s SPD manual does not

1 render this factual allegation implausible. While the manual provides that “Officers Must  
2 Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest,” it  
3 says nothing of the training devoted to substantiating and implementing this requirement  
4 among the officer ranks. Dkt. # 14-2 at 2. Third, as alleged, the City of Seattle’s failure  
5 to properly train its officers resulted in the deprivations of Bellinger’s constitutional  
6 rights. Because Bellinger has sufficiently alleged a *Monell* claim, the City of Seattle’s  
7 motion to dismiss under Rule 12(b)(6) is denied.

#### 8 **V. CONCLUSION**

9 For the reasons stated above, the Court **DENIES** the City’s Partial Motion to  
10 Dismiss Count III of Plaintiff’s Complaint. Dkt. # 13.

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12 DATED this 16th day of February, 2017.

13   
14 The Honorable Richard A. Jones  
15 United States District Judge  
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